

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1804 OF 2025

Dr. Kirti L. Upadhyaya and anr. ...Petitioners

Versus

Harkant Hiralal Sondha and ors. ...Respondents

Mr. Sukand Kulkarni, a/w Ruchita Chavan, i/b Amit
Karkhanis, for the Petitioners.

Ms. Indira Labde, for Respondent Nos.1 and 2.

CORAM: N. J. JAMADAR, J.

DATED: 23rd JUNE, 2025

Oral Order:-

1. Heard the learned Counsel for the parties.
2. This petition assails the legality, propriety and correctness of the judgment and order passed by the Appellate Bench of the Court of Small Causes in Revision Application No.274 of 2022 dated 18th December, 2022, whereby the Revision Application preferred by the petitioners came to be dismissed affirming the order passed by the Trial Court rejecting the application for amendment in the written statement preferred by the petitioners.
3. The petitioners are the tenants of the suit premises. The respondents instituted the suit for recovery of possession of the demised premises on the ground of *bona fide* requirement.

4. In the application for amendment in the written statement the petitioners contended that, while the evidence of the defendants was being recorded, the petitioners learnt that the prospective purchasers of the house property, in which the suit premises is situated, had approached the other tenants in the said property. The prospective purchaser's representative visited the suit premises also and took measurements. Thus, the purported *bona fide* requirement was a ruse to dispossess, the defendants and, eventually, sell the house property, in which the suit premises is situated. Thus, the application to amend the written statement so as to bring the subsequent events on record.

5. The application was resisted by the plaintiffs/landlords.

6. By an order dated 7th August, 2024, the learned Judge was persuaded to reject the application.

7. Revision application preferred by the petitioners against the said order did not succeed.

8. Mr. Kulkarni, the learned Counsel for the petitioners, would urge that the Trial Court as well as the Revisional Court have approached the controversy from an incorrect perspective. The Trial Court was under an erroneous impression that the tenant could approach the Court with a grievance that the

landlord had sold the demised premises, even after passing the decree. Though the Revisional Court found the said reasoning of the Trial Court incorrect, yet, it failed to correct the error committed by the Trial Court. The reference to the provisions contained in Section 18 of the Maharashtra Rent Control Act, 1999 by the Revisional Court was equally erroneous, as the contingency covered by the said section never arose. Mr. Kulkarni would further urge that, since the defendants were seeking to bring on record the subsequent events which indicated that the requirement of the landlord was not genuine and *bona fide*, the Courts ought to have permitted the petitioners to amend the written statement.

9. I have perused the averments in the application for amendment, especially the Schedule of Amendment. The petitioners proposed to amend the written statement so as to plead that during the month of March, 2024 attention of the defendants was drawn by the fellow tenants of the house property, in which the suit premises is situated, to the fact that some potential developers visited the house property for redevelopment. Moreover, some unknown persons visited the suit premises and took measurements inside the suit premises

and of the said house property. Thus, the plaintiffs were desirous of divesting their interest in the suit premises.

10. Suffice to note that the proposed amendment is as vague as it could be. The proposed amendment does not divulge the identity of the fellow tenants, who allegedly disclosed the fact that the potential purchasers visited the said house property. Nor does it disclose the identity of the persons, who allegedly visited the suit premises and took measurements. The proposed amendment was sought with an object of delaying and embarrassing the trial. The proposed amendment is so vague that if allowed the defendants – tenants can lead evidence of any and every person.

11. The articulation of reasons by the Trial Court may not be refined. However, the substance of the matter cannot be lost sight of. By the proposed amendment, the defendants – tenants made an endeavour to introduce bald and open ended defences so as to further delay the trial by seeking permission to adduce evidence on such bald and omnibus contentions. Therefore, no interference is warranted in the impugned order.

12. The petition stands dismissed.

[N. J. JAMADAR, J.]